IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

Bail Appl..No. 5740 of 2007()

CR.NO.43/07 OF THIRUPURAM EXCISE RANGE

: PETITIONER/ACCUSED

VASANTHY W/O. LATE APPU,
RESIDINGA T MURUKA VILASOM OTTARA,
KANJIRAM KULAM, PREVIOSLY RESIDING AT MANKALA
MANALI PUTHEN VEEDU, KANJIRAMKULAM.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5740 of 2007

Dated this the 26th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner, a woman, faces allegations under the Kerala Abkari Act. She was allegedly found to be in possession of 5 litres of arrack on 9.9.07. As no woman official was available in the detecting excise party, she was not arrested. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The excise officials had some differences of opinion with the deceased husband of the petitioner and that is why false allegations are being raised against her, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that sufficient data to reveal the complicity of the petitioner have already been collected. The petitioner is involved in 6 other earlier abkari crimes from 2003 to 2007. The petitioner may be directed to surrender before the Investigating Officer or the learned Magistrate and seek regular bail, submits the learned Public Prosecutor .

4. I have considered all the relevant inputs. I do not find any features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is an eminently fit case where the petitioner must appear before the learned Magistrate having jurisdiction or the Investigating Officer and then seek bail in the regular and ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-